

REMARKS

By this amendment, Applicants have amended claims 2, 4, 5, and 7-9.

Accordingly, claims 2 and 4-9 are pending in this application.

In the Final Office Action (hereinafter, "Office Action"),¹ the Examiner rejected claims 2 and 4-9 under 35 U.S.C. § 101, and rejected claims 2 and 4-9 under 35 U.S.C. § 103(a) as being obvious in view of Satsukawa et al. (U.S. Patent No. 6,379,249) (hereinafter, "Satsukawa") and further in view of Kami et al (US Patent No. 5,853,324) (hereinafter, "Kami").

Applicants respectfully disagree with the Examiner's statements and conclusions in the Office Action for the reasons below.

I. Claim Rejections Under 35 U.S.C. § 103(a)

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest **all the claim limitations**. See M.P.E.P. § 2142, 8th Ed., Rev. 5 (August 2006) (emphasis added).

However, the Examiner did not refer to or provide any reasoning or citations supporting the obviousness rejection of Applicants' claim element "**(b) changing a time scale such that a display speed of at least the enemy-character and each one of the bullets fired from the enemy-character become slower when the visual effect request is input,**" as recited in claim 7. Therefore, for at least this reason, among others, the Examiner has not met the burden of establishing a *prima facie* case of obviousness of claim 7 over Satsukawa and Kami.

¹ The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

In the Office Action, the Examiner asserted that

Satsukawa teaches...: # a) determining...; (c) displaying...; (d) determining...; (e) displaying...; (f) displaying...; (g) decreasing.... However, Satsukawa is silent with respect to the specific teaching of a running time limit or remaining time in proportion to the elapsed time to change such things as the display speed of the enemy-character and other attributes of the game.

In an analogous gaming patent, Kami et al. teaches the implementation of a shooting game where an elapsed time reduces in game play that decreases in proportion to an elapsed time in which the computer system executes the displaying of circumstances. Additionally, the system of Kami teaches the determining of whether or not the remaining time is over because the game play is then terminated if the remaining time is over. However, as taught in Kami the remaining time may be restored to a normal value when a certain accomplishment or progression through the game has been reached (*see time limit [380] of Fig. 3 and the related description thereof*).

See Office Action, pages 3-4, emphasis in original.

As stated in the Reply to Office Action filed on June 11, 2007, at pages 11-12, the Examiner did not refer to or provide any reasoning or citations supporting the obviousness rejection of Applicants' claim element "**(b) changing a time scale such that a display speed** of at least the enemy-character and each one of the bullets fired from the enemy-character **become slower** when the visual effect request is input," as recited in claim 7 (emphasis added).

Satsukawa does not teach or suggest anything related to this claim element.

Satsukawa appears to disclose an image generation device in which "[f]irst and second viewpoints for the 1P and 2P players are controlled and images as seen from those first and second viewpoints are output to first and second display screens, respectively."

See, Abstract.

The portions of Satsukawa cited by the Examiner further disclose that “[t]he viewpoint control sections 116-1 and 116-2 control the corresponding first and second viewpoints of the 1P and 2P players.” (col. 7, lines 29-31) and “[i]n particular, an exceptionally dramatic effect can be achieved by making the first movement path 42-1 of the first viewpoint 40-1 and the second movement path 42-2 of the second viewpoint 40-2 diverge when a given circumstance occurs, as shown in FIG. 12B.” See, col. 11, lines 13-17.

Thus, while Satsukawa apparently discloses “[f]irst and second viewpoints for the 1P and 2P players,” nowhere in Satsukawa is there any teaching or suggestion of “**(b) changing a time scale such that a display speed** of at least the enemy-character and each one of the bullets fired from the enemy-character **become slower** when the visual effect request is input,” as recited in claim 7 (emphasis added).

Kami does not remedy this deficiency. The portion of Kami’s Fig. 3 relied on by the Examiner discloses that

[t]he remaining time 360 in the game is displayed on the central and upper part of the game scenes. The remaining time 380 reduces in real time with progress of the game. As the remaining time 380 reaches zero, the game is terminated. See col. 7, lines 12-15.

Thus, while Kami discloses a “remaining time 380”, nowhere in Kami is there any teaching or suggestion of “**(b) changing a time scale such that a display speed** of at least the enemy-character and each one of the bullets fired from the enemy-character **become slower** when the visual effect request is input,” as recited in claim 7 (emphasis added).

In addition, the Examiner stated, “the system of Kami teaches the determining of whether or not the remaining time is over because the game play is then terminated if

the remaining time is over. However, as taught in Kami the remaining time may be restored to a normal value when... (*see time limit [380] of Fig. 3 and the related description thereof*)." See Office Action, page 4, emphasis in original. Applicants respectfully submit that this mischaracterizes Kami.

While Kami discloses reducing a "remaining time 380" (col. 7, lines 13-14.), this does not teach or suggest Applicants' claimed "restoring **the time scale** to a normal value," as recited in claim 7. Further, claim 7 recites, among other things, (i) terminating the displaying of circumstances when the remaining time is over," and "(j) restoring the time scale to a normal value when the displaying of circumstances is over." According to the recitations of claim 7, a **"remaining time"** and a **"time scale"** are different and the **"time scale"** is restored when the **"remaining time"** is terminated. Contrary to the Examiner's assertion, claim 7 does not recite restoring "the remaining time" to a normal value.

In summary, the Examiner did not refer to Applicants' claim element "(b) changing a time scale..." of claim 7. Further, Satsukawa and Kami taken alone or in combination fail to teach or suggest the claim element "(b) changing a time scale..." of claim 7. Therefore the Examiner has not met the burden of establishing a prima facie case of obviousness of claim 7 over Satsukawa and Kami. Accordingly, the Examiner should withdraw the rejection of claim 7 under 35 U.S.C. § 103(a).

Although of different scope, claim 8 recites limitations corresponding to the limitations of claim 7 discussed above. Therefore, the Examiner should withdraw the rejection of claim 8 under 35 U.S.C. § 103(a) for at least the reasons set forth above

regarding claim 7. Further, the Examiner should also withdraw the rejection of claims 2, 4-6, and 9 at least due to their dependence from claims 7 and 8 respectively.

II. Rejection of Claims 2 and 4-9 under 35 U.S.C. § 101:

Applicants have amended independent claims 7 and 8 to recite, in part, “[a] computer program product, **stored on a computer readable medium**, for causing a computer system to ...,” (emphasis added). Therefore, Applicants respectfully traverse the Examiner’s rejection of claims 2 and 4-9 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. See, Office Action, page 2.

In particularly, the Examiner alleged that “[t]he ability to calculate and execute an action in virtual space fails to exhibit tangibility as the computer program product has no real world tangibility and only exists somewhere within the computer. Therefore the claims as proposed [have] not produced a real world result.” See, *Id.*

As discussed in the Reply to Office Action filed on June 11, 2007, independent claims 7 and 8 recite, in part, “(c) **displaying circumstances** in the virtual space viewed from the virtual viewpoint **on the screen** where the enemy-character is located based on the changed time scale,” “(e) **displaying an image of the shooting target** being shot **on the screen** when bullets that are virtually fired responding to an input operation of the player collide with the shooting target,” and “(f) **displaying a remaining time** for the computer system to execute the displaying of circumstances **on the screen**.” Therefore, Applicants’ claimed computer program product produces tangible results, e.g., (c) displaying circumstances, (e) displaying an image of the shooting target, and (f) displaying a remaining time. Further, claims 7 and 8 recite “(e) displaying an image of the shooting target being shot at on the screen when bullets that are

virtually fired responding to an input operation of **the player** collide with the shooting target." (Emphasis added). According to the recitations of claim 7 or 8, it is clear that "an image of the shooting target" is displayed on the screen **to the player**.

Furthermore, displaying (c) circumstances, (e) an image of the shooting target, and (f) a remaining time to a player on a screen is also consistent with the Examiner's statement that "a computer program may be deemed tangible if it can produce a real world result (*ie: such as **displaying something to a user on a screen***)" (emphasis added). See, Id. All of these results are "real world" results and are not abstract.

Accordingly, Applicants request that the Examiner withdraw the section 101 rejection of claims 7 and 8. Further, the Examiner should also withdraw the rejection of claims 2, 4-6, and 9 at least due to their dependence from claims 7 and 8 respectively.

III. Conclusion

In view of the foregoing remarks, Applicants request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 9, 2007

By: William J. Burgan, Reg. # 43,515
for Richard V. Burgujian
Reg. No. 31,744